REMARKS

This Amendment responds to the Notice of Non-Compliant Amendment (hereinafter the "Notice") dated December 21, 2005. Claims 1-56 now stand canceled, and new claims 57-73 are now pending. Claims 57, 62 and 68 are the independent claims. Favorable reconsideration is requested.

As noted above, on September 9, 2005, Applicants timely filed an Amendment And Response To Office Action in response to the Final Office Action dated July 12, 2005, and thereafter filed an RCE. The present Notice issued on December 21, 2005.

Initially, the Examiner will note that the correct Application Serial Number appears in the heading on each page.

The Notice correctly pointed out that one or more of Applicants' prior Amendments had improperly numbered the claims, and that therefore there was "no consistency as to the status of the claims." Rather than try to trace back which numbers to use, Applicants hereby seek to avoid any confusion by canceling all claims previously referred to by number in any of the prior Amendments and Office Actions, i.e., numbers 1-56.

Applicants are now presenting new claims 57-73, which are substantively identical to the previously pending claims as presented in the Amendment dated September 9, 2005.

Applicants will now repeat the remarks presented in the Amendment filed September 9, 2005, with references to the newly numbered independent claims in bold.

The Office Action rejected prior claims 1 and 4-7 under 35 U.S.C. § 103(a), as being unpatentable over Bracken, et al., "High-tech 360." The Office Action rejected prior claims 22-27 and 29-34 under 35 U.S.C. § 103(a), as being unpatentable over Bracken, et al. and Fethe (U.S. 5,926,794). These bases for rejection are addressed below.

Rejection Of Claims 1 and 4-7 Under 35 U.S.C. § 103(a) Over Bracken et al.

The Office Action admits at page 5 that Bracken et al. does not disclose sending feedback relating to the evaluations to each evaluatee in the native language of the evlauatee as recited in [Claim 1] **Claim 57**. The Office Action states that Bracken et al. discloses at paragraph 25 that "a goal of its Internet-based performance evaluation system" is "to provide transnational data accessibility to companies with global sites" and that enabling an evaluators to give evaluations in their native language, but provide feedback to evaluatees in the native language of the evaluatees would only add to that goal. (Office Action at 6.) The Office Action then states that it is "old and well known for companies with global sites to provide their websites in multiple languages." (*Id.*) The Office Action then concludes that "[a]t the time of the invention, it would have been obvious to a person of ordinary skill in the art for Bracken et al. to send feedback relating to the evaluations to each evaluatee in the native language of each evaluate as recited in [Claim 1] **Claim 57**.

First, paragraph 25 of Bracken et al. states that "[c]ompanies with global sites will see a substantial advantage to an Internet application." That statement in Bracken et al.

does not teach, disclose, or suggest any solution to the specific problem of conducting performance evaluations with personnel who speak different languages. It does not teach, disclose, or suggest the step of sending feedback relating to the evaluations to each evaluatee in the native language of each evaluatee as recited in [Claim 1] **Claim 57**.

Second, the Office Action has not identified any documentary evidence to support that it was "old and well known for companies with global sites to provide their websites in multiple languages." Applicants understand the Office Action to be taking Official Notice that it is "old and well known for companies with global sites to provide their websites in multiple languages." If it was well known to send feedback relating to the evaluations to each evaluatee in the native language of each evaluate as recited in [Claim 1] **Claim 57**, it would have been mentioned in the cited references, particularly in Bracken et al.. As the Office Action admits, it is not disclosed in Bracken et al. Thus, pursuant to MPEP § 2144.03(C), Applicants respectfully request the Patent Office to either (a) provide the documentary evidence for the alleged facts of which Official Notice has been taken, or (b) withdraw the allegation.

Third, even if such documentary evidence was identified, it would not establish that the claimed invention is obvious. Providing the content of a website in multiple languages is not the same as sending feedback relating to the evaluations to each evaluatee in the native language of each evaluatee as recited in [Claim 1] **Claim 57**. Bracken et al. does not teach, disclose, or suggest any solution to the problem of conducting performance evaluations with personnel who speak different languages. It

also does not teach, disclose, or suggest the step of sending feedback relating to the evaluations to each evaluatee in the native language of each evaluatee as recited in [Claim 1] **Claim 57**.

The Office Action contends that Bracken et al. discloses listing on a to do list outstanding tasks relating to the completion of the performance measurement for each evaluatee as recited in Claim 4 (new claim 58) and listing completed tasks for the performance measurement as recited in Claim 7 (new claim 61). (Office Action at 4 (citing Bracken et al. ¶¶ 4, 6, and 9.) Applicants respectfully disagree. Those paragraphs describe a supervisor setting parameters up-front that include timeframes and deadlines for completing evaluations and notifying supervisors if raters have not completed evaluations. That is not the same as a listing on a to do list outstanding tasks relating to completion of the performance measurement for each evaluatee and listing completed tasks for the performance measurement as recited in Claim 7 (new claim 61).

The Office Action contends that Bracken et al. discloses linking compensation and promotion processes to the evaluation as recited in claims 5 and 6 (new claims 59 and 60). (Office Action at 3 (citing Bracken et al. ¶ 29).) Applicants respectfully disagree. Paragraph 29 of Bracken et al. states that it is "increasingly common for a company to use employees' feedback results to make such decisions as pay increase and promotions[,]" but it does not disclose, teach, or suggest linking those processes to the evaluation as recited in claims 5 and 6 (new claims 59 and 60).

Rejection Of Claims 22-27 and 29-34 Under 35 U.S.C. § 103(a) As Unpatentable Over Bracken et al. and Fethe

The Office Action admits that Bracken et al. does not expressly disclose presenting said feedback form to said evaluate in a second language. The Office Action does not contend that Fethe supplies the missing teaching. Thus, [Claim 22] **Claim 62** is patentably distinct from Bracken et al. for at least the same reasons as [Claim 1] **Claim 57** discussed above.

Neither Bracken et al. nor Fethe, nor any of the prior art of record disclose, suggest, or teach, disclose, or suggest "an interface module, said interface module presenting to an evaluator an evaluation form in a first language, said evaluator inputting evaluation information regarding an evaluatee into said evaluation form . . . wherein said interface module presents said feedback form to said evaluatee in a second language" as recited in [Claim 22] **Claim 62**.

[Claim 29] **Claim 68** and its dependent claims are patentably distinct from Bracken et al. and Fethe for at least the same reasons discussed above. Moreover, he Office Action has not identified any prior art (including Bracken et al. or Fethe) that discloses, teaches, or suggests the additional limitations recited in those dependent claims.

Applicants respectfully request that the rejections based on Bracken et al. and Fethe be withdrawn.

Conclusion

In light of the foregoing amendments and remarks, Applicants respectfully submit that **new Claims 57-73** are patentably distinct over the prior art of record, that the application is in proper form for allowance of all claims, and earnestly solicit a notice to that effect.

Respectfully submitted,

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